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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

APR 5 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Policies and Rules)
Concerning Operator Service)
Providers and Call Aggregators)

CC Docket No. 94-158

DOCKET FILE COPY ORIGINAL

**U S WEST REPLY COMMENTS ON
FURTHER NOTICE OF PROPOSED RULE MAKING**

U S WEST Communications, Inc. ("U S WEST") hereby submits its reply comments on the Federal Communications Commission's ("Commission") proposal to require payphone owners to update the signs on public telephones within 30 days after notification of a change in the presubscribed interexchange carrier ("PIC change").¹ The proposed rule does not strike the right balance between the two competing interests that the Commission correctly identified -- "the public's need for updated information and the payphone owner's need to avoid unnecessary service calls to payphone locations."² With some fairly limited modifications, as described below, the rule could be tailored to meet both needs.

¹ In the Matter of Amendment of Policies and Rules Concerning Operator Service Providers and Call Aggregators, CC Docket No. 94-158, Report and Order and Further Notice of Proposed Rule Making, FCC 96-75 (rel. Mar. 5, 1996).

² Id. at ¶ 44.

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U S WEST fully recognizes the public's need for updated information, and posts PIC changes at the vast majority of its payphones in far less than 30 days.³ Other local exchange carriers ("LEC") such as NYNEX, Ameritech and GTE apparently do too.⁴ Although delays in posting PIC changes appear to be isolated and sporadic, the Commission nevertheless seems intent on establishing a time limit that all payphone owners must meet. The key question, then, is: what time limit is fair and reasonable?

The proposed 30-day time limit is not fair and reasonable across-the-board because it does not accommodate payphone owners' need to avoid unnecessary service calls to rural and limited access locations. The cost of maintaining payphones in rural locations is already high. Posting PIC changes on a rural payphone within 30 days would almost always require a separate dispatch. Furthermore, it is often difficult to gain access to payphones located in establishments that do not keep regular business hours (e.g. bingo halls). The Commission should, therefore, modify the proposed rule to require PIC changes to be posted within 30 days unless the payphone is in a rural or limited access location, in which case the payphone owner must post the PIC change by no later than the date of the first servicing of the payphone that occurs after the initial 30-day period.

³ In January and February of 1996, U S WEST verified that 95% of the instruction cards in 857 randomly-selected U S WEST-owned payphones properly identified the IXC.

⁴ See NYNEX Comments, filed herein Mar. 9, 1995, at 2; Ameritech Comments, filed herein Mar. 26, 1996, at 2. See also GTE Comments, filed herein Mar. 9, 1995, at 5.

Modification of the proposed rule is necessary to avoid placing a disproportionate burden on the Regional Bell Operating Companies (“RBOCs”). Independent payphone owners have the right to select the interexchange carrier, and thus have complete control over the timing and frequency of PIC changes. RBOCs currently do not have that right.⁵ Moreover, RBOCs do not have the ability to control unauthorized PIC changes. Arguably, the rule as written creates an economic incentive to engage in slamming. For all these reasons, the Commission should not require the RBOCs to make special trips to post PIC changes on payphones in remote or limited access locations within 30 days.

Nor should the Commission require a PIC change to be posted within 30 days of notification of the change. This would have the effect of shortening the time because it normally takes several days to process a PIC change order. Commission-imposed verification procedures will soon be part of that process.⁶ For administrative ease and simplicity, the time for updating consumer information should not begin to run until the order has been processed and verified.

Similarly, the Commission should reject AT&T’s suggestion that a PIC change be posted within 30 days or at the next scheduled servicing of the phone,

⁵ Section 276(b)(1)(D) of the Telecommunications Act of 1996 rectifies this imbalance by giving RBOCs the same right to negotiate with the location provider with respect to IXC selection, “unless the Commission determines . . . that it is not in the public interest.” Telecommunications Act of 1996 (or “1996 Act”), Pub. L. No. 104-104, 110 Stat. 56, 107.

⁶ Section 258(a) of the Telecommunications Act of 1996 requires the Commission to prescribe verification procedures to protect against illegal changes in subscriber carrier selections. 1996 Act, 110 Stat. at 77.

whichever is earlier,⁷ because that approach also could shorten the time beyond what is reasonable. The next servicing of the payphone in question could be scheduled for the following day, and it would be nearly impossible for the payphone owner to ensure that consumer information is updated that fast. Also, in an enforcement action the Commission should not be put to the task of determining when the next servicing of the payphone in question was scheduled to occur. The simplest approach is to give the payphone owner at least 30 days to post the PIC change.

Given the disparate impact of the proposed rule and the marginal need for it, the Commission should modify it in order to strike the right balance.

Respectfully submitted,

U S WEST COMMUNICATIONS, INC.

By:



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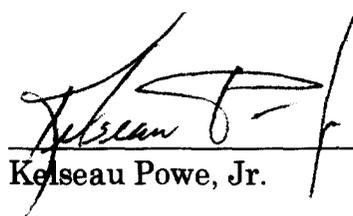
Of Counsel,
Dan L. Poole

April 5, 1996

⁷ AT&T Comments, filed herein Mar. 26, 1996, at 2.

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 5th day of April, 1996, I have caused a copy of the foregoing **U S WEST REPLY COMMENTS ON FURTHER NOTICE OF PROPOSED RULE MAKING** to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.


Kelseau Powe, Jr.

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